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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/642,716	08/18/2003	Stephen G. Kimmet	1-16294	4389

7590

10/20/2005

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EXAMINER

PUROL, DAVID M

ART UNIT	PAPER NUMBER
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3634

DATE MAILED: 10/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/642,716	Applicant(s) KIMMET, STEPHEN G.	
	Examiner David M. Purol	Art Unit 3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 4-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 4-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 5,11 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. These claims contain subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

It is not known the structure and the software/hardware interface which comprises the computer controlled display. The applicant states that the software and hardware of the computer controlled display is a very mature field of art. Nevertheless, the applicant is not relieved of the requirement to provide a written description of the invention and the manner and process of making it in such terms as to enable any person skilled in the art to make and use the same.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1,2,6-9,12,13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bruneau. Bruneau discloses the claimed folding panel assembly including a

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plurality of folding panels 6 hingedly mounted to vertically-oriented frames, first and second locking bars 30,31. It is noted that the claims have been amended to recite that the folding panel assembly has an absence of any elements that would unite the folding panels to horizontal members that would span above and/or below the opening, and that there are only vertically-oriented frames. However, it is a well settled issue that to eliminate an element together with its function would have been obvious to one of ordinary skill in the art.

3. Claims 4,10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bruneau in view of Dykes. While Bruneau does not set forth a decorative or descriptive panel, Dykes discloses a folding panel assembly comprising decorative or descriptive panels 30a-d, wherein, to incorporate this teaching into the folding panel assembly of Bruneau for the purpose of aesthetics would have been obvious to one of ordinary skill in the art.

4. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bruneau in view of Thun et al. While Bruneau does not set forth the use of a spring, Thun et al disclose a folding panel assembly 20,21 comprising spring 58 biased hinges 29, wherein, to incorporate this teaching into the folding panel assembly of Bruneau for the purpose of facilitating the movement of the panels would have been obvious to one of ordinary skill in the art.

5. The applicant argues that in Bruneau the patent requires a chassis or a fixed frame consisting of an upper runner 1 and a lower runner 2 which are horizontal frame

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members. This is not convincing for omitting the horizontal frame members together with their function would have been readily apparent to the artisan of ordinary skill in the art. The applicant further states that by removing Bruneau's horizontal members the resulting panel assembly does not satisfy Bruneau's requirement to prevent forcible entry. This argument only further substantiates the Examiner's position that to eliminate an element (the horizontal members) together with their function (the prevention of forcible entry) is the expected result.

The applicant states that Bruneau does not teach first and second plurality of folding panels. This is not convincing for Bruneau clearly states and illustrates in figure 1 that the shutter comprises two series of panels articulated with respect to each other.


Applicant's arguments have been fully considered but they are not persuasive.

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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7. Any inquiry concerning this communication should be directed to David M Purol at telephone number (571)272-6833.


David M Purol
Primary Examiner
Art Unit 3634

DMP
(571)272-6833
October 17, 2005